



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MEMORANDUM

TO: THE COMMISSION  
STAFF DIRECTOR  
GENERAL COUNSEL  
FEC PRESS OFFICE  
FEC PUBLIC RECORDS

FROM: MARY W. DOVE *MWD*  
SECRETARY OF THE COMMISSION

DATE: July 21, 2003

SUBJECT: *Ex Parte* COMMUNICATION REGARDING  
REVISED DRAFT AO 2003-17

Transmitted herewith is an e-mail submitted by Karen S. Riecker, counsel for James W. Treffinger.

Proposed Advisory Opinion 2003-17 is on the agenda for Thursday, July 24, 2003.

Attachment:

2 pages

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July 21, 2003

Via Facsimile (202) 208-3333

Ms. Mary Dove

Acting Commission Secretary

Federal Election Commission

999 E Street NW

Washington, D.C. 20463

2003 JUL 21 P 2:03

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

Re: Draft Advisory Opinion 2003-17

Dear Ms. Dove:

We have received the Draft Advisory Opinion 2003-17, which is on the agenda of the Commission's July 24, 2003 meeting, and submit the following comment for consideration by the Commission and staff.

The Draft Advisory Opinion mandates the payment of \$29,471 restitution by Mr. Treffinger's campaign committee "within 30 days of receipt of the advisory opinion." (Draft Advisory Opinion, pages 10-11) Assuming the draft is approved at the Commission meeting of July 24<sup>th</sup>, this would make the restitution payment due at the end of August.

Mr. Treffinger is scheduled to be sentenced on September 10, 2003. At that time, the court will order restitution. Notwithstanding Mr. Treffinger's plea agreement with the prosecutor, the court may order restitution in the amount stated above, or it may order Mr. Treffinger to pay some amount either more or less. Until the court enters an Order setting forth Mr. Treffinger's obligation to make restitution, however, we cannot know the precise amount of restitution that Mr. Treffinger will be obliged to pay, and Mr. Treffinger has no legal obligation to make such payment before a restitution order is entered.

Therefore, we respectfully request that the Commission amend the Draft Advisory Opinion to state that Mr. Treffinger's campaign committee shall make restitution, as ordered by the court at sentencing in the criminal matter, within 30 days of the court Order directing the payment of restitution by Mr. Treffinger. (As set forth in the Draft

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Advisory Opinion (at page 11), this restitution payment will take priority over the payment of legal fees by the campaign committee.)

If you would like any additional information, please do not hesitate to contact me.

Thank you for your consideration.

Very truly yours,

KLINGEMAN TURANO LLC



KARIN S. RIECKER

cc: Office of General Counsel, FEC (by fax 202-219-3923)